

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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U.S. DISTRICT COURT E.D.N.Y.
★ MAR 15 2013 ★
LONG ISLAND OFFICE

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DANNY DONOHUE, as President of the
Civil Service Employees Association, Inc.,
Local 1000, AFSCME, AFL-CIO,
Civil Service Employees Association, Inc.,
Local 1000, AFSCME, AFL-CIO,

Plaintiffs,

-against-

NASSAU COUNTY INTERIM FINANCE
AUTHORITY, et al.,

Defendants.
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APPEARANCES:

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Office of the Nassau County Attorney

MEMORANDUM AND ORDER

CV 11-1900

(Wexler, J.)

One West Street
Mineola, New York 11501

WEXLER, District Judge

In this action Plaintiffs challenge the imposition of a wage freeze imposed by Defendant Nassau County Interim Finance Authority ("NIFA"). Two other cases, Carver v. NIFA, No. 11-1614 (E.D.N.Y.) (LDW) ("Carver") and Jaronczyk v. NIFA, No. 11-2743 (E.D.N.Y.) (LDW) ("Jaronczyk"), commenced by representatives of two other Nassau County unions, were also brought before this court. Like this case, Carver and Jaronczyk challenge the legality of wage freezes imposed by NIFA. Carver and Jaronczyk were consolidated with this matter for motion practice. Summary judgment motions in all three cases were simultaneously submitted to this court for decision.

In a Memorandum and Opinion dated February 14, 2013, this court granted the motion of the Carver plaintiffs for summary judgment. Carver v. Nassau County Interim Finance Authority, 2013 WL 544009 (E.D.N.Y. 2013). There, this court held that Section 3669 of the New York Public Authorities Law ("Section 3669") did not permit imposition of the challenged wage freeze. The court stayed operation of any judgment in Carver pending appeal. Judgment was entered in accord with the February 14, 2013 decision on March 4, 2013. Defendants have filed their notice of appeal.

In addition to moving for summary judgment, Plaintiffs in this matter sought leave to amend their complaint to raise the issue of the legality of the wage freeze in light of Section 3669. In accord with this court's decision in the Jaronczyk matter, this court grants Plaintiffs' motion to amend their complaint to raise the Section 3669 issue. The amended complaint shall be filed within two weeks of the date of this order. Within one week of serving their answer,

Defendants are directed to advise the court, without waiving any right to appeal, as to whether there is any factor in this case that distinguishes it from Carver, which requires a disposition different from the decision reached therein. In the event that any such ground is raised, the court will consider the propriety of further motion practice.

CONCLUSION

For the forgoing reasons, the court grants Plaintiffs' the right to amend their complaint as set forth herein, and directs the filing of papers as set forth above.

SO ORDERED.

LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York
March 15, 2013